

Members

Rep. Jesse Villalpando, Chair
Rep. William Crawford
Rep. Brian Hasler
Rep. Ralph Foley
Rep. Mary Kay Budak
Rep. Jeff Thompson
Sen. Luke Kenley, Vice-Chair
Sen. David Ford
Sen. David Long
Sen. Glenn Howard
Sen. Timothy Lanane
Sen. Samuel Smith, Jr.



INTERIM STUDY COMMITTEE ON JUVENILE LAW AND RESTORATIVE JUSTICE

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MEETING MINUTES¹

Meeting Date: August 9, 1999
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. Jesse Villalpando, Chair; Rep. William Crawford; Rep. Brian Hasler; Rep. Ralph Foley; Rep. Mary Kay Budak; Rep. Jeff Thompson; Sen. Luke Kenley, Vice-Chair; Sen. Glenn Howard; Sen. Timothy Lanane.

Members Absent: Sen. David Ford; Sen. David Long; Sen. Samuel Smith, Jr.

CALL TO ORDER AND OPENING REMARKS

Representative Villalpando called the meeting to order at 10:15 a.m. and reviewed the Committee's charge. The Committee members then introduced themselves to the audience.

WITNESS TESTIMONY

Senator Marv Riegsecker thanked the Committee members for their interest in exploring restorative justice and provided a brief history of its evolution in the Indiana General Assembly. He stated his belief that restorative justice is most effectively applied to cases involving

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juveniles.

Senator Kenley recognized Senator Bud Meeks' presence in the audience and Representative Villalpando invited him to join the Committee members at the table.

Representative Budak stated that she collected materials on restorative justice at the NCSL conference and would make them available to the Committee members.

Representative Foley suggested that juvenile law be removed from Title 31 and placed in a separate title. Senator Kenley recommended that John Stieff, Director of LSA's Office of Code Revision, speak to the issue before making any such changes. Representative Villalpando requested that the Committee staff solicit Mr. Stieff's comments and add them to the minutes. Mr. Stieff's response is as follows:

- When the Code Revision Commission began its preliminary work on the recodification of family and juvenile law in 1996, a motion was made to separate the subject areas into two titles, but failed for lack of a second. However, a motion was made to separate family law and juvenile law into two parts within Title 31. At the suggestion of the Commission, the Office of Code Revision requested that the publisher of the Indiana Code prepare two indexes for Title 31 in two volumes. As a result, in West Group's Annotated Indiana Code family law and juvenile law are published in separate volumes, each with its own index.
- The argument in favor of splitting the two areas is the substantive difference in family law and juvenile law - juvenile law is separate and distinct from family law and the cases are heard in different courts.
- The argument against splitting the two areas is that: (1) the traditional approach has been to group them together under the same title; (2) while juvenile law is distinct from family law, some overlap between the areas exists; (3) there is concern about the proliferation of titles in the Indiana Code.
- Finally, there is concern about the reaction of practitioners if a few years after the reorganization of all of Title 31, the General Assembly relocated half of Title 31 to a different place in the Indiana Code. However, in 1996, the family law section of the Indiana State Bar Association favored such a split.

Senator Lanane stated that his constituents are interested in additional issues, such as school safety, juveniles and handguns, and the idea of adding a third tier to the juvenile justice system to address the practice of waiving juveniles to adult court.

Representative Villalpando stated that he will caucus with Senator Kenley and have a public discussion to organize the agenda and issues for the Committee's consideration.

Representative Crawford requested that the Department of Correction provide the Committee with statistics on the number of juveniles institutionalized at the county level.

Al Wengerd, Executive Director, Center for Community Justice, presented testimony on restorative justice based on 22 years of experience with criminal justice and community-based systems. He thanked the Committee members for their enthusiasm and expressed his excitement at the prospect of reforming the juvenile justice system. Mr. Wengerd discussed

Elkhart's experience with restorative justice, and indicated that if a framework is provided in which restorative justice can work, the community will participate because the concept makes sense to businesses and other community organizations. He argued that it is appropriate for communities to take a more active role in facilitating a system in which an offender takes responsibility for his acts and makes things right with the victim.

Mr. Wengerd explained how restorative justice works in Elkhart. A juvenile is usually referred to the Center by the juvenile court, at which point, the victim is contacted and encouraged to participate. If the victim agrees, one of 20 trained mediators facilitates a meeting between the victim and the offender at a time and place determined by the victim. Mr. Wengerd stressed that the system is largely victim-driven. At the meeting, the parties discuss what happened and negotiate a settlement. The referring court reviews the settlement and must approve it before it can be pursued further. The Center monitors the settlement and collects any restitution paid by the offender. In settlements where the offender is required to pay monetary restitution, the Center "bills" the offender by sending out an invoice to be paid. According to Mr. Wengerd, the Center's collection rate has increased three-fold since the implementation of invoicing.

He stated that the Center is funded in part by offender fees, but most of the funding is from the Department of Correction, United Way, County Commissioners, and private organizations. The Center offers three programs: Community Service Restitution, Juvenile Reparations, and Victim Offenders Reconciliation, in addition to a victim impact panel for drunk driving cases. According to Mr. Wengerd, 2,583 victims and offenders were served by the Center in 1998.

Mr. Wengerd stressed that the dearth of research on the impact of restorative justice on offenders (as in recidivism rates, for example) is a problem which needs to be addressed. In Elkhart, the Center is used as a last stop before boy's school, but is also used for the first-time offender. If the offender is twelve years old or older, the parents do not come in to the mediation meetings, but are otherwise involved in the process.

Senator Ford commented that as a result of his experience as a county prosecutor, there are two kinds of juvenile offenders, status and non-status, and they should be kept separate from each other. He stated that the General Assembly artificially established age eighteen as the cutoff between juvenile and adult offenders, and that perhaps a three-tier system should be developed. He cited the following threshold ages for each tier as an example: up to sixteen years of age, from 16 to 24 years of age, and over 24 years of age.

Mr. Wengerd advocated that Indiana establish the Youthful Offender Act, which sets the upper age limit for juveniles at 24 years of age. He stated that research out of the University of Cincinnati shows that sentencing first time offenders to serious jail time results in high recidivism rates.

The Honorable Julie Cartmel, Juvenile Magistrate, Marion County, distributed handouts to the Committee members and commended them on their progressiveness, noting that the concept of restorative justice is beginning to generate interest across the country. Magistrate Cartmel explained that the purpose of restorative justice is to get the victim back into the system and feeling less alienated. It also forces juveniles to face their victims and the consequences of their crime in an effort to counter the lack of empathy many juveniles possess.

She discussed several different models of restorative justice, including those used in New Zealand and Australia, and stressed the advantage of the system's flexibility. She likened the

Australian models to an alcohol or drug intervention. In those models, both the victims and the offenders bring family members or friends to the mediation to provide support and encouragement. The main difference from the American conceptualization, is that all criminal cases are referred to the restorative justice system (with the victim's permission), including offenders who have committed serious crimes, and it is used with adult offenders as well.

Magistrate Cartmel also discussed the application of restorative justice to child abuse and neglect cases in New Zealand and Australia, and indicated that the success rate is very high and the system is cost effective because it lowers the number of institutional placements in the long run. She explained that Child Protective Services plays a monitoring role, and service providers give the families information about their services directly, and the family chooses the treatment plan it will follow (with the referring court's approval).

Senator Ford expressed his frustration with the lack of speedy adjudication given to child abuse and neglect cases, and his belief that the current adversarial system does not work well for family problems.

Don Evans, President, Community Corrections Advisory Board, Porter County, discussed key features of restorative justice that are already reflected in Indiana's existing criminal justice system. Representative Budak asked about the effectiveness of juvenile boot camps in terms of lowering recidivism. Mr. Evans stated that all the research he has reviewed consistently indicates that such boot camps are highly ineffective. Representative Budak asked if the Department of Correction has conducted a study of recidivism rates for offenders who were sentenced to the boot camp in LaPorte County. Joann Williams, representing the Department of Correction, stated that no such study has been conducted.

Senator Meeks discussed the loss of the practice of police officers becoming directly involved with juveniles and their parents when a juvenile was caught doing something illegal. He stated that such personal involvement often resulted in lower recidivism rates, and expressed frustration that today police are required to refer a juvenile to probation or juvenile court and discouraged from getting personally involved with the juvenile and their families.

Representative Villalpando stated his desire to contact a representative from another state which has recently dealt with these issues to testify before the Committee. He stated that he wants several juvenile judges to testify before the Committee about the feasibility of implementing restorative justice in Indiana. He stressed that he wanted to have a draft of legislation prepared and distributed to the judges prior to their appearance before the Committee.

Representative Crawford reiterated his request for data from the Department of Correction for county information on institutionalized juveniles and the statistical information presented in its annual report. Joann Williams and Bill Glick, Executive Director, Indiana Juvenile Justice Task Force, Inc., said that they would work on collecting that information. Representative Foley requested information on the cost to the counties for institutional placements. Representative Budak requested that a representative from Indiana Family and Social Services Administration be present to testify about the application of restorative justice to child abuse and neglect cases.

ADJOURNMENT

With no further business before the Committee, Representative Villalpando set the next meeting for September 13, at 10 a.m. in Room 404 and adjourned the meeting at 12:10 p.m.